

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA**

State of Oklahoma, et al.,

Plaintiffs,

v.

Tyson Foods, Inc., et al.,

Defendants.

05-CV-0329 GKF-SAJ

**AFFIDAVIT OF DARA D. MANN
IN SUPPORT OF THE CARGILL
DEFENDANTS' SEPARATE
RESPONSE TO PLAINTIFFS'
MOTION TO EXPAND THE
DISCOVERY PERIOD**

STATE OF GEORGIA)
) ss.
COUNTY OF COBB)

I, Dara D. Mann, hereby depose and state as follows:

1. I am an attorney at Faegre and Benson, LLP. I represent Cargill, Inc. and Cargill Turkey Production, LLC ("the Cargill Defendants") in the above-captioned litigation. I make this affidavit on personal knowledge and submit it in support of the Cargill Defendants' Separate Response to Plaintiffs' Motion to Expand the Discovery Period.

2. I have supervised the Cargill Defendants' efforts to collect, review, and produce documents responsive to the Court's July 7, 2007 Order regarding corporate knowledge of the detrimental effects of the land application of poultry litter, as well as other categories of documents requested by the State.

3. After meeting and conferring with the State in July 2007, the Cargill Defendants agreed to provide the State with various requested categories of documents beyond the scope of corporate knowledge, regardless of date. These categories of documents were identified in an August 2, 2007 letter from Theresa Hill to Robert Nance and Trevor

Exhibit 1

Hammons and include historical contract turkey grower files, flock evaluation reports for IRW contract turkey growers, environmental audits for all IRW contract turkey growers, and similar documents referring to IRW turkey breeder operations. These categories were requested by the State during a July 19, 2007 meet and confer.

4. As reflected in Ms. Hill's August 2, 2007 letter, it was our understanding that the State would get back to us in the near future with its proposed additional categories for consideration, if any, following the conclusion of the July 19, 2007 meet and confer.

5. Plaintiffs never responded or objected to Ms. Hill's August 2, 2007 letter, and the Cargill Defendants followed through on the offered production. The next time the Cargill Defendants received notice that the State desired additional pre-2002 documents was the filing of Plaintiffs' Motion to Expand the Discovery Period on December 21, 2007.

6. In an effort to identify documents responsive to the identified categories in the August 2, 2007 letter, as well as documents responsive to the Court's July 7, 2007 Order, attorneys and paralegals from Cargill's Legal Department, Rhodes Hieronymus, and Faegre & Benson, LLP together spent over two months scheduling and interviewing approximately 80 Cargill employees. They also searched and gathered documents from the Cargill Defendants' operations and storage facilities located in Minneapolis, MN; Savage, MN, Wichita, KS; Springdale, AR; Gentry, AR; Ozark, AR, Harrisonburg, VA; California, MO; Waco, TX; and Clifton, TX.

7. The Cargill Defendants produced documents identified in the August 2, 2007 letter on September 14, 2007 (Production 9), September 18, 2007 (Production 10), October 30, 2007 (Production 11), November 5, 2007 (Production 12), December 3, 2007 (Productions 13-16), and February 4, 2008 (Production 20).

8. With the exception of approximately 200 storage boxes, the Cargill Defendants have completed their production of documents responsive to Plaintiffs' documents requests and in accordance with the Court's discovery Orders and the agreement of counsel reached on July 19, 2007. The Cargill Defendants placed their remaining review and production of the 200 storage boxes on hold pending the Court's decision on the State's motion to expand the temporal scope of discovery.

9. Counsel for the State have acknowledged that "the volume of document production" by the Cargill Defendants "is greater than the combined total of all other defendants." (Brief Ex. 5: Mar. 21, 2008 Email from R. Garren to J. Tucker.) Based on information and belief, the cost to the Cargill Defendants of identifying, collecting, reviewing, redacting, and producing the corporate knowledge and agreed-upon pre-2002 documents from September 2007 through February 2008 alone easily exceeded \$800,000. This is in addition to the approximately \$1 million previously incurred by the Cargill Defendants responding to Plaintiffs' discovery requests since the inception of this lawsuit. Should the Court wish to review the invoices for these activities, the Cargill Defendants will be prepared to submit them for *in camera* inspection at the hearing on the instant motion.

10. With the exception of corporate knowledge documents and the categories of documents identified in the August 2, 2007 letter, the Cargill Defendants have been extremely careful not to produce documents prior to 2002 unless ordered by the Court (as in the case of corporate knowledge) or agreed to by the parties (as reflected in Ms. Hill's August 2, 2007 letter). With limited exceptions inherent with a document production exceeding one-quarter million pages of documents, the Cargill Defendants have not produced additional documents dated before 2002. This has been the result of careful review by teams

of attorneys that have, at times, numbered over 40 and painstaking redactions by teams of trained document analysts.

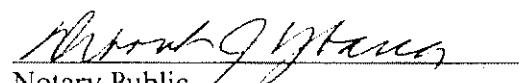
11. Expanding the temporal scope of discovery would require the Cargill Defendants to expend significant additional resources identifying, collecting, reviewing, redacting, and producing additional documents and ESI, similar to the process it undertook only recently to satisfy the State's expressed need for particular categories of documents beyond the 5-year period. Based on information and belief, such a process could reasonably cost the Cargill Defendants approximately \$2,456,000.

12. The vast majority of the documents that have not yet been collected or reviewed, but that would have to be collected and reviewed to comply with the State's Motion, are various low-value pre-2002 form documents. These include Job Tickets, Micro Tickets, Mixing Sheets, Run Reports, Usage Reports, Batching/Pelleting Sheets, Feed Ticket Sales Invoices, Production Reports, and Miscellaneous Tickets/Sales Invoices. There exist hundreds of boxes with these sorts of documents. These are the type of documents that Counsel for the State have often referred to as "trash," yet are responsive to the State's broad and numerous discovery requests in this case.

THIS CONCLUDES MY AFFIDAVIT.


DARA D. MANN

Subscribed and sworn to before me
this 21st day of March, 2008.


Notary Public
My commission expires: 1-31-10

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